

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

IQVIA HOLDINGS INC.,

and

PROPEL MEDIA, INC.

Defendants.

Case No. 1:23-cv-06188-ER

**NOTICE OF PLAINTIFF'S MOTION TO STRIKE DEFENDANTS'
CONSTITUTIONAL AND EQUITABLE AFFIRMATIVE DEFENSES**

PLEASE TAKE NOTICE THAT, pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, Plaintiff Federal Trade Commission (the "FTC") hereby moves this Court to strike the constitutional and equitable affirmative defenses asserted by IQVIA Holdings Inc. ("IQVIA") and Propel Media, Inc. ("Propel") (collectively, "Defendants") in their Answers. As explained in the FTC's memorandum in support of its motion, these defenses should be dismissed with prejudice for a variety of reasons. Several raise constitutional challenges to the FTC's process and powers that are "immaterial" and "impertinent" to the narrow inquiry that this Court must undertake in evaluating an FTC claim for a preliminary injunction pursuant to Section 13(b) under the Federal Trade Commission Act. Still others raise defenses of laches and estoppel that are not only improperly pled but cannot be raised against the Government in the circumstances of this case. The FTC will suffer prejudice if forced to expend resources defending against sideshow matters that have no bearing on the Section 13(b) inquiry. This is especially true in light of the expedited

nature of these proceedings and the far-reaching implications of Defendants’ allegations—which attack the constitutionality not just of the FTC, but also of other federal agencies that use administrative proceedings to protect and serve the American public. Accordingly, this Court should strike with prejudice Defendants’ constitutional and equitable affirmative defenses.

Dated: September 20, 2023

Respectfully submitted,

/s/ Jennifer Fleury

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